

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

ROUSH FENWAY SERVICES, LLC,  
Plaintiff,

v.

LM INSURANCE CORPORATION,  
LIBERTY MUTUAL INSURANCE  
COMPANY and CAMBRIDGE  
UNDERWRITERS, LTD.,

Defendants.

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**Case No.: 1:09-cv-472**

**DEFENDANTS' MOTION TO  
DISMISS**

[Fed. R. Civ. P. 12(b)(1)]

[Fed. R. Civ. P. (b)(6)]; [L.R. 7.3]

Defendants, LM Insurance Corporation and Liberty Mutual Insurance Company (collectively, "Liberty Mutual"), hereby initially respond to the First Amended Complaint filed by Plaintiff, Roush Fenway Services, LLC ("Roush"), by incorporating their pending motion to dismiss Roush's original complaint, including all supporting legal memoranda, as if fully restated herein. The causes of action and factual allegations asserted against Liberty Mutual in the First Amended Complaint have not materially changed from those asserted in the original complaint, all of which were subject to Liberty Mutual's motion to dismiss. Liberty Mutual hereby reserves its right to answer the First Amended Complaint and raise all applicable affirmative defenses, counterclaims and/or cross-claims if its pending motion to dismiss is denied.

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Respectfully submitted this the 23<sup>rd</sup> day of April, 2010.

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*Attorneys for Defendants, LM Insurance Corp. and  
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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 23<sup>rd</sup> day of April, 2010, he electronically filed the foregoing “**Motion to Dismiss**” with the Clerk of Court using the CM/ECF system that also electronically served the document upon counsel for the other parties as shown below.

ELMORE & WALL, P.A.

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